

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

NANSI NELSON, individually and as
Executrix of the Estate of Robert H. Nielson,

Plaintiff,

**1:06-cv-1057
(GLS/RFT)**

v.

**ULSTER COUNTY, NEW YORK; LEWIS
KIRSCHNER**, Ulster County Treasurer;
NINA POSTUPACK, Ulster County Clerk;
**WVD 2906209, LLC; MARK DELACORTE;
DANIEL WINN**; and **JOSEPH VIVIANNI**,

Defendants.

SUMMARY ORDER

On December 7, 2011, defendant Joseph Viviani filed a motion for an award of interest, attorney's fees, costs and reimbursement against defendant Ulster County pursuant to a cross-claim asserted by WVD 2906209 LLC ("WVD"). (See Dkt. No. 258; Dkt. No. 78 ¶ 21.) Ulster County countered that Viviani's motion is meritless because, *inter alia*, the cross-claim was asserted by only WVD, and in any event, the settlement agreement between WVD and Ulster County precludes Viviani's motion. (See Dkt. No. 243 at 7; Dkt Nos. 259, 261.) In addition, Ulster County cross-moved for the costs associated with defending this motion and

Vivianni's previous motion for fees, which the court denied as premature. (See Dkt. Nos. 235, 237, 252, 259.) Having reviewed the parties' submissions, it is clear Vivianni's claim has no basis in law or fact as the cross-claim was asserted by WVD, and was thereafter settled by it. (See Dkt. No. 78 ¶ 21; Dkt. No. 243 at 7.) Moreover, Vivianni conceded that WVD paid the taxes that were subsequently returned by Ulster County. (See Dkt. No. 237 ¶ 2.) And while the court concurs with Ulster County's argument regarding Vivianni's entitlement to costs, it declines, in light of Vivianni's *pro se* status, to grant Ulster County's cross-motion. (See *generally* Dkt. Nos. 259, 261, 262.)

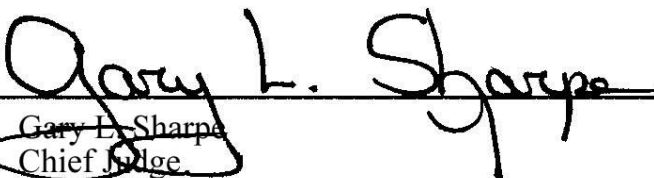
ACCORDINGLY, it is hereby

ORDERED that Vivianni's motion and Ulster County's cross motion (Dkt. Nos. 258, 259) are **DENIED**; and it is further

ORDERED that the Clerk provide a copy of this Summary Order to the parties.

IT IS SO ORDERED.

January 23, 2012
Albany, New York



Gary L. Sharpe
Chief Judge
U.S. District Court